

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

BRANDON NICHOLAS MCLANE,

Plaintiff,

v.

JAKE TOLLETT,

Defendant.

No. 2:23-cv-02740-DAD-CSK (PC)

ORDER ADOPTING IN FULL FINDINGS
AND RECOMMENDATIONS, DENYING
PLAINTIFF'S MOTION FOR DEFAULT
JUDGMENT, AND DISMISSING THIS
ACTION

(Doc. Nos. 20, 25)

Plaintiff Brandon Nicholas McLane is a state prisoner proceeding *pro se* in this civil rights action brought pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On April 26, 2024, the assigned magistrate judge issued findings and recommendations recommending that plaintiff's motion for default judgment be denied and that this action be dismissed for failure to state claim. (Doc. No. 25) Specifically, the magistrate judge concluded that plaintiff's factual allegations in his first amended complaint "did not change from his initial complaint, and that his new reliance on the Fourteenth Amendment again fails to state a cognizable civil rights claim." (*Id.* at 4.) The magistrate judge further recommended that plaintiff's motion for default judgment be denied in light of the fact that "[t]o date, the court has

not ordered that defendant be served, and the U.S. Marshal has not executed service on defendant.” (*Id.* at 6.)

The pending findings and recommendations were served on the parties and contained notice that any objections thereto were to be filed within fourteen (14) days after service. (*Id.* at 7.) Plaintiff filed objections to the pending findings and recommendations on May 10, 2024. (Doc. No. 26.) Plaintiff then filed a document titled “Second Amended Prisoner Civil Rights Complaint” without having been granted leave to do so. (Doc. No. 27.)

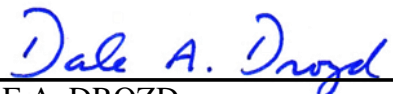
In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a *de novo* review of the case. Having carefully reviewed the entire file, including plaintiff’s objections, the court concludes that the findings and recommendations are supported by the record and by proper analysis. Nothing in plaintiff’s objections, nor in plaintiff’s proposed second amended complaint, provides a basis upon which to decline to adopt the pending findings and recommendations.

Accordingly:

1. The findings and recommendations issued on April 26, 2024 (Doc. No. 25) are adopted in full;
2. Plaintiff’s motion for default judgment (Doc. No. 20) is denied;
3. This action is dismissed for failure to state a claim; and
4. The Clerk of the Court is directed to close this case.

IT IS SO ORDERED.

Dated: October 10, 2024



DALE A. DROZD
UNITED STATES DISTRICT JUDGE